

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHRIS CUFFARO,

Plaintiff,
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-against-
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FASHIONISTO LLC,

Defendant.
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DATE FILED: AUG 27 2020

MEMORANDUM DECISION
AND ORDER

19 Civ. 7265 (GBD) (KHP)

GEORGE B. DANIELS, United States District Judge:

Plaintiff Chris Cuffaro brings this action against Defendant for copyright infringement under the Copyright Act, 17 U.S.C. §§ 106, 501, and removal of copyright management information under the Digital Millennium Copyright Act, 17 U.S.C. § 1202(b). Plaintiff alleges that Defendant published, without authorization, a copyrighted photograph of English singer and songwriter George Michael. (Compl., ECF No. 1, ¶¶1, 7–11.) Plaintiff maintains that such photograph is owned and registered by Plaintiff with Copyright Registration Number VA 2-064-720. (*Id.* ¶ 9.) On December 10, 2019, this Court referred this matter to Magistrate Judge Katherine H. Parker for general pretrial and all dispositive motions. (Order of Reference, ECF No. 12.)

Defendant has not appeared, filed an answer, or otherwise moved with respect to the complaint. Accordingly, on February 11, 2020, Plaintiff moved for default judgment against Defendant. (Notice of Mot., ECF No. 15.) Magistrate Judge Parker scheduled a damages inquest hearing for May 20, 2020. (*See* Order, ECF No. 34.) In advance of the hearing, Plaintiff filed various documents in support of his request for damages, including a memorandum of law, proposed findings of fact and conclusions of law, an affidavit, and a declaration from counsel with

documentation of fees and costs incurred in this action. Defendant did not make any submissions to Magistrate Judge Parker or appear at the hearing.

Before this Court is Magistrate Judge Parker’s July 9, 2020, Report and Recommendation (the “Report”), recommending that this Court enter judgment for Plaintiff against Defendant and award Plaintiff (1) \$1,500 in actual damages for Defendant’s violation of the Copyright Act, (2) \$2,500 for Defendant’s violation of the Digital Millennium Copyright Act, (3) \$1,700 in attorneys’ fees, and (4) \$440 in costs. (Report, ECF No. 39, at 2.) Magistrate Judge Parker advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections on appeal. (*Id.* at 16.) No objections were filed.

A court “may accept, reject, or modify, in whole or in part, the findings or recommendations” set forth in a magistrate judge’s report. 28 U.S.C. § 636(b)(1)(C). Portions of a magistrate judge’s report to which no or “merely perfunctory” objections are made are reviewed for clear error. *See Edwards v. Fischer*, 414 F. Supp. 2d 342, 346–47 (S.D.N.Y. 2006) (citations omitted). Clear error is present when “upon review of the entire record, [the court is] ‘left with the definite and firm conviction that a mistake has been committed.’” *United States v. Snow*, 462 F.3d 55, 72 (2d Cir. 2006) (citation omitted).

Magistrate Judge Parker conducted a comprehensive and careful inquest. This Court finds no error, clear or otherwise in the Report’s analysis. Accordingly, this Court adopts Magistrate Judge Parker’s recommended judgment regarding damages, attorneys’ fees, and costs for the reasons stated in the Report.

I. CONCLUSION

Magistrate Judge Parker’s Report is ADOPTED in its entirety. Plaintiff’s motion for default judgment against Defendant, (ECF No. 15), is GRANTED. Final judgment shall be entered ordering Defendant to pay Plaintiff: (1) \$1,500 in actual damages for Defendant’s violation of the Copyright

Act, (2) \$2,500 for Defendant's violation of the Digital Millennium Copyright Act, (3) \$1,700 in attorneys' fees, and (4) \$440 in costs.

Dated: New York, New York

August 27, 2020

SO ORDERED.


GEORGE B. DANIELS
United States District Judge